No Objection to Declassification in Full 2010/12/06 : LOC-HAK-447-1-8-6

DOS, OSD Reviews Complete

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INFORMATION

April 7, 1969

TOP SECRET/SENSITIVE

MEMORANDUM FOR HENRY A. KISSINGER

FROM: Al Haig

SUBJECT: Items to Discuss with the President, Monday, April 7, 1969

1. Discuss Peru situation -- memorandum at A.

2. Discuss Hussein visit

   a. Give books
   b. Discuss President's participation

3. Review NSC schedule for the week:

   a. NATO - 3:00 p.m., Tuesday, April 8 RED BOOK

      (1) Absence of Rogers
      (2) Briefing by State of Ministerial Meeting
      (3) Discuss draft speech -- Tab B
      (4) Discuss President's participation - Tab C

4. Discuss ABM problem: indications of major Kennedy effort; problem of linking troop withdrawals and SALT with ABM issue; and effects of this.

5. Discuss Vietnam/Vance mission - Tab D

6. Discuss timing and scope of new Cambodian strike (two targets on the border - maximum effort, short duration) Tab E

7. Discuss means by which Presidential paperwork can be reduced:

   a. HAK chair routine messages and greetings to heads of state.

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b. HAK clear security affairs correspondence of routine nature for President.

c. HAK approve routine policy questions or policy items for which Presidential views are known and established.

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MJ No Objection to Declassification in Full 2010/12/06 : LOC-HAK-447-1-8-6 TAB A

THE WHITE HOUSE

WASHINGTON

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April 6, 1969 - 9 PM

MEMORANDUM FOR DR. KISSINGER

FROM: Arnold Nachmanoff

SUBJECT: Peru

I understand from State that Amb. Irwin's meeting with the President this afternoon went off well. The President agreed with Irwin's recommendation to defer Hickenlooper on the basis of administrative procedures, and said he wanted to keep the pressure on Peru. Irwin plans to tell Velasco of the decision tommorrow, and Secretary Rogers will announce it at his press conference. The text of the Secretary's statement is attached, as is a background text for Irwin to draw upon tommorrow if he briefs the U.S. press in Lima. I understand the President agreed to the sense of the Secretary's statement fror the press --- the exact text was prepared afterwards.

During his meeting with Irwin, the President apparently indicated that he thought State should start thinking about how we are going to line up our friends on this issue during the interval before August 6.

A cable giving guidance to all Latin American posts on the Hickenlooper decision and its background is also attached for your information.

Attachements: Telegrams --State to Lima 52406; 52404; State circular 52408.

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C O N F I D E N T I A L STATE 052486

SUBJECT: PRESS STATEMENT ON IPC CASE

FOLLOWING IS APPROVED TEXT OF STATEMENT TO BE MADE BY SECRETARY AT PRESS CONFERENCE ELEVEN O'CLOCK AM APRIL 7 ANNOUNCING DEFERRAL OF HICKENLOOPER SANCTIONS:

"AMBASSADOR IRWIN HAS RETURNED TO LIMA AFTER THREE DAYS OF CONSULTATION IN THE DEPARTMENT. WHILE HE WAS HERE HE GAVE A FULL REPORT ON HIS MEETINGS WITH PRESIDENT VELASCO, AND MEMBERS OF HIS CABINET. HE ALSO STOPPED AT KEY BISCAYNE TO CONSULT WITH PRESIDENT NIXON.

"AMBASSADOR IRWIN REPORTED THAT AT THE SUGGESTION OF PERUVIAN OFFICIALS IPC HAS AN OPPORTUNITY, THROUGH ADMINISTRATIVE PROCESS, TO CONTEST THE EXISTENCE AND AMOUNT OF THE DEBT ASSERTED BY THE PERUVIAN GOVERNMENT TO BE OWED BY THE COMPANY. AFTER DISCUSSION WITH ATTORNEYS FOR IPC, THE COMPANY HAS INFORMED US THAT IT PLANS SHORTLY TO PRESENT A DOCUMENT TO THE MINISTER OF ENERGY AND MINES WITHIN THE FRAMEWORK OF THIS PERUVIAN

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ADMINISTRATIVE PROCESS.-

"WE HAVE DETERMINED THAT SUCH A PROCESS, TOGETHER WITH THE CURRENT NEGOTIATIONS, CONSTITUTE APPROPRIATE STEPS TOWARD COMPENSATION WITHIN THE MEANING OF THE HICKENLOOPER AMENDMENT TO THE FOREIGN ASSISTANCE ACT AND AMENDED SUGAR ACT. THEREFORE, IT HAS BEEN DECIDED--AND AMBASSADOR IRWIN HAS SO INFORMED THE PERUVIAN GOVERNMENT--THAT THE SANCTIONS FORESEEN IN THE AMENDMENTS WILL BE DEFERRED PENDING THE OUTCOME OF THIS PROCESS.

"IN THESE CIRCUMSTANCES, WE BELIEVE OUR DETERMINATION OFFERS THE BEST HOPE THAT THE DISPUTE BETWEEN IPC AND THE GOP CAN BE RESOLVED WITHOUT INJURY TO THE TRADITION OF CLOSE AND FRIENDLY RELATIONS BETWEEN THE US AND PERU."

FOR AMBASSADOR IRWIN: YOU WILL NOTE MODIFICATIONS INSERTED BY SECRETARY. REFERENCE TO "CURRENT NEGOTIATIONS" IN THIRD PARAGRAPH INTENDED REFER TO YOUR PRESENT DISCUSSIONS AND WILL BE SO EXPLAINED IN ANSWER TO ANY QUESTIONS ON SUBJECT. ROGERS

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FOR AMBASSADOR IRWIN FOR IRWIN'S USE IN BACKGROUNDING U.S. PRESS IN LIMA.

1. FOLLOWING IS BELLMAN TEXT RE IPC:

"FOR SOME YEARS THE PROBLEM OF THE INTERNATIONAL PETROLEUM COMPANY (IPC) HAS CAUSED CONCERN BOTH IN PERU AND IN THE UNITED STATES. IPC, INCORPORATED IN CANADA, BUT OWNED BY US CITIZENS, HAS OPERATED IN PERU SINCE 1924.

2. IN 1963, PRESIDENT BELAUNDE, NEWLY ELECTED CHIEF EXECUTIVE, ANNOUNCED HIS GOAL OF SOLVING THE IPC PROBLEM. HIS AIM OF REACHING A SOLUTION WITHIN 90 DAYS WAS UNSUCCESSFUL, BUT NEGOTIATIONS BETWEEN THE COMPANY AND THE GOVERNMENT CONTINUED AFTER THAT TIME. IN JUNE 1968, THE PRESIDENT WAS GRANTED EXTRAORDINARY POWERS BY THE PERUVIAN CONGRESS, AND, UNDER THIS AUTHORITY, THE GOP ENTERED INTO AN AGREEMENT--THE "ACT OF TALARA"--WITH IPC IN AUGUST 1968. UNDER THE TERMS OF THAT AGREEMENT, ALL ASPECTS OF THE IPC PROBLEM WERE SETTLED INCLUDING DEBTS THAT HAD BEEN CLAIMED BY THE GOVERNMENT AGAINST THE COMPANY.

3. ON OCTOBER 3, 1968 A MILITARY JUNTA REPRESENTING THE ARMED FORCES OF PERU OVERTHREW THE BELAUNDE GOVERNMENT. ON OCTOBER 4, 1968 THE NEW REVOLUTIONARY GOVERNMENT NULLIFIED THE ACT OF TALARA. ON OCTOBER 9, 1968 THE REVOLU-

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TIONARY GOVERNMENT ISSUED A DECREE LAW ORDERING THE EX-
PROPRIATION OF THE TALARA REFINERY AND THE ASSOCIATED IN-
DUSTRIAL COMPLEX FROM IPC; THESE WERE SEIZED FORTHWITH.
THE US GOVERNMENT RECOGNIZES THE RIGHT OF ANY GOVERNMENT TO
EXPROPRIATE PRIVATE PROPERTY PROVIDED PROMPT, ADEQUATE AND
EFFECTIVE COMPENSATION IS PAID.

4. ON MARCH 28, 1969, THE GOP, FOLLOWING PERUVIAN LAW
9125, DECLARED THE VALUE OF THE SEIZED ASSETS TO BE DOLS
71,013,314.17. THE USG ACCEPTS THE PROCEDURES UTILIZED
BY GOP IN REACHING ITS VALUATION.

5. THE DECREE LAW OF OCTOBER 9, 1968 ALSO ORDERED THE COL-
LECTION OF DEBTS ALLEGEDLY OWED BY IPC. ON DECEMBER 31,
1968, THE GOVERNMENT PROMULGATED A NEW DECREE LAW ESTA-
BLISHING A PROCEDURE FOR THE COERCIVE COLLECTION OF THESE
DEBTS; THE DECREE PROVIDED NO PRIOR JUDICIAL PROCEDURES.
A DEBT IN EXCESS OF DOLS 690 MILLION WAS ESTABLISHED BY
MINISTERIAL RESOLUTION ON FEBRUARY 5, 1969 AND ALL OF THE
COMPANY'S ASSETS IN PERU HAVE BEEN ATTACHED WITH A VIEW
TO COLLECTION OF THE DEBT.

6. THE GOP HAS ADVISED THAT JUDICIAL PROCEDURES MAY BE
AVAILABLE TO CHALLENGE THE DEBT, BUT ONLY COLLATERALLY.
THE ONLY DIRECT COURSE OF ACTION OPEN TO THE COMPANY IS TO
PROCEED WITHIN THE FRAMEWORK OF ADMINISTRATIVE PROCESS.
IT WAS THE EXECUTIVE BRANCH, ACTING THROUGH ITS DECREE
LAW POWER, THAT ESTABLISHED THE EXISTENCE OF THE DEBT,
AND IT WAS THE MINISTRY OF DEVELOPMENT AND PUBLIC WORKS
THAT ESTABLISHED THE AMOUNT.

7. IPC BEGAN IN FEBRUARY AN ADMINISTRATIVE APPEAL CHAL-
LENGING THE DEBT IT ALLEGEDLY OWES. THE COMPANY HAS INFORMED
US THAT IT WILL SHORTLY BE FILING A DOCUMENT IN FURTHER
SUPPORT OF ITS POSITION WITHIN THE FRAMEWORK OF THE ADMI-
NISTRATIVE PROCESS.

8. ADMINISTRATIVE PROCESS MEANS IN THIS CASE A REVIEW BY
THE MINISTRY OF ENERGY AND MINES, WITH THE POSSIBILITY OF
APPEAL OF HIS DECISION TO THE PRESIDENT OF PERU. WE HAVE
BEEN INFORMED BY THE GOP THAT THIS ENTIRE PROCESS MUST BE
COMPLETED BY AUGUST 6, 1969.

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9. AT THE SAME TIME, WE HAVE SUGGESTED TO THE GOP THAT IT WOULD BE USEFUL TO UNDERTAKE FURTHER DISCUSSIONS FOR THE PURPOSE OF EXPLORING OTHER POSSIBLE SOLUTIONS TO THIS PROBLEM.

10. BECAUSE THE COMPANY HAS PROCEEDED IN THE ADMINISTRATIVE CONTEXT THE USG HAS DETERMINED THAT THE "APPROPRIATE STEPS" REQUIRED BY THE HICKENLOOPER AMENDMENTS ARE BEING TAKEN AT THIS TIME. THIS DETERMINATION MUST, UNDER THE STATUTES, BE A CONTINUING ONE, THAT IS, THE REQUIREMENTS OF THE STATUTES ARE STAYED ONLY WHILE THE APPROPRIATE STEPS CONTINUE.

11. IN THESE CIRCUMSTANCES, WE BELIEVE OUR DETERMINATION OFFERS THE BEST HOPE THAT THE DISPUTE BETWEEN IPC AND THE GOP CAN BE RESOLVED WITHOUT INJURY TO THE TRADITION OF CLOSE RELATIONS BETWEEN THE US AND PERU." ROGERS

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C O N F I D E N T I A L STATE 052403

SUBJECT: GUIDANCE ON DEFERRAL OF SANCTIONS AGAINST PERU

1. TEXT OF STATEMENT TO BE MADE BY SECRETARY AT PRESS CONFERENCE 11:00 AM APRIL 7 ANNOUNCING DEFERRAL OF HICKENLOOPER SANCTIONS BEING SENT SEPTEL FOR YOUR USE.

2. POSTS SHOULD INFORM FONMINS OF US ACTIONS AND MAY DRAW ON FOLLOWING POINTS. WE WILL BE SENDING YOU ADDITIONAL MATERIAL PROMPTLY.

A. US HAS DECIDED TO DEFER SANCTIONS BEYOND APRIL 9 DEADLINE PENDING THE RESULTS OF A PERUVIAN ADMINISTRATIVE APPEAL PROCESS AVAILABLE TO IPC. PROCESS HAS BEEN DESCRIBED TO AMBASSADOR IRWIN AS ONE WHICH WILL ALLOW FULL REVIEW OF THE ALLEGED DOLS 690 MILLION DEBT CLAIMED BY THE GOP AGAINST THE COMPANY.

B. IT IS THE ALLEGATION OF THIS DEBT WHICH PREVENTS THE ACTIONS TAKEN BY THE GOP TO MAKE COMPENSATION FOR THE EXPROPRIATED PROPERTIES FROM BEING ADEQUATE AND EFFECTIVE.

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C. THE GOP HAS EVALUATED THE EXPROPRIATED ASSETS AT DOLS 71 MILLION AND HAS DEPOSITED A CHECK FOR AN EQUIVALENT AMOUNT IN LOCAL CURRENCY IN THE PERUVIAN NATIONAL BANK. HOWEVER, THE GOP HAS EMBARGOED THE CHECK AGAINST PAYMENT OF THE ALLEGED DEBT. THUS THE DEPOSIT OF THE CHECK IS NOT CONSIDERED AN APPROPRIATE STEP TOWARD COMPENSATION.

D. THE GOP HAS UNILATERALLY ASSERTED THE EXISTENCE OF THIS DEBT BY FIAT. HOWEVER, AN ADMINISTRATIVE APPEAL PROCESS AGAINST THE DEBT HAS BEEN AFFORDED IPC BY THE GOP, AND THE COMPANY INTENDS TO FILE A DOCUMENT SHORTLY WITHIN THE FRAMEWORK OF THIS PROCEDURE.

E. THE USG IS DEEPLY CONCERNED THAT THIS ISSUE BE RESOLVED IN A MANNER SATISFACTORY TO BOTH COUNTRIES BECAUSE OF OUR LONG TIES OF FRIENDSHIP WITH THE PERUVIAN PEOPLE AND OUR DESIRE TO PARTICIPATE IN A CONSTRUCTIVE ECONOMIC RELATIONSHIP WHICH WILL CONTRIBUTE TO PERU'S ECONOMIC DEVELOPMENT.

F. WE ARE DOING EVERYTHING POSSIBLE TO PERMIT A FAIR AND JUST RESOLUTION TO BE REACHED AMICABLY. WE ARE HOPEFUL THAT THE ADMINISTRATIVE PROCESS WILL BE CONDUCTED IN AN OPEN AND FAIR MANNER, AND WILL LEAD TO COMPENSATION AS REQUIRED BY INTERNATIONAL LAW.

G. USG IS DEFERRING APPLICATION OF SANCTION REQUIRED BY US LAW PENDING DECISION ON IPC'S APPEAL. THE PERUVIAN AUTHORITIES INFORMED AMBASSADOR IRWIN THAT THE ENTIRE PROCESS, INCLUDING FURTHER APPEAL TO PRESIDENT VALESCO, MUST BE COMPLETED BY AUGUST 6, SIX MONTHS FROM THE FIXING OF THE DOLS 693 MILLION DEBT.

H. THE APPLICABLE US LEGISLATION (520(E) OF FAA AND 408(C) OF SUGAR ACT) RETAINS ITS MANDATORY CHARACTER, AND IT IS THEREFORE ESSENTIAL THAT THIS PROCEDURE LEAD TO PROMPT, ADEQUATE AND EFFECTIVE COMPENSATION.

3. FYI. WE ARE NOT VERY OPTIMISTIC THAT GOP ADMINISTRATIVE PROCESS WILL RESULT IN ACTUAL COMPENSATION BUT WITH COOPERATION OF IPC WE BELIEVE WE MUST SEE THIS PROCEDURE THROUGH BEFORE INVOKING SANCTIONS. IRWIN WILL ALSO PROPOSE TO GOP APRIL 7 THAT IN ADDITION TO ADMINISTRATIVE PROCESS, WE ARE PREPARED TO JOIN WITH PERU IN DIRECT BILATERAL NEGOTIATIONS WHICH COULD

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EXPLORE OTHER AVENUES TO COMPENSATION SUCH AS BY WAY OF AN INTERNATIONAL OIL CONSORTIUM BUY-OUT. WE WILL INFORM YOU OF THE OUTCOME. ROGERS

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